



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

### **SPECIAL ORDER BY CONSENT**

### **ISSUED TO**

### **TOWN OF MOUNT JACKSON**

**(VPDES Permit No. VA0026441)**

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of Mount Jackson, for the purpose of resolving certain violations of environmental laws and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "STP" means sewage treatment plant.

7. “Mt. Jackson” and “Town” means Town of Mount Jackson, which owns and operates the Mount Jackson STP.
8. “Facility” and “Plant” mean the Mt. Jackson STP located in Shenandoah County, Virginia.
9. “VRO” means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
10. “Permit” means Virginia Pollutant Discharge Elimination System Permit No. VA0026441, which became effective December 31, 2001 and expires December 31, 2006. Permit limits include pH, biochemical oxygen demand [“BOD”], total suspended solids [“TSS”], and chlorine [“TRC”].
11. “NOV” means Notice of Violation.
12. “Regulation” means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.
13. “MGD” means million gallons per day.
14. “PER” means preliminary engineering report.
15. “I&I” means infiltration and inflow.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Mt. Jackson owns and operates a sewage treatment plant serving the Town of Mt. Jackson with approximately 1880 residents in Shenandoah County, Virginia. The Facility is the subject of VPDES Permit Number VA0026441 which allows the Facility to discharge treated wastewater to the North Fork Shenandoah River in the Shenandoah River subbasin and the Potomac River basin.
2. The design capacity of the Facility has been rated and approved as 0.20 MGD. As of January 2003 the effluent flows from the Facility exceeded design capacity for three consecutive months. During 17 months out of a 20 month period (November 2002 through June 2004), the monthly average flows through the Facility have exceeded the Facility’s design capacity. These exceedances of the design capacity appear to coincide with periods of wet weather.
3. The Town’s sewage collection system receives excessive I&I which is causing the Facility’s design capacity to be exceeded. In addition, these excessive flows have caused problems with the Facility’s ability to properly treat the wastewater coming to the Facility.

4. On July 8, 2004, DEQ issued NOV No. W2004-07-V-0005 to Mt. Jackson for apparent violations of pH and BOD effluent limits occurring during the period from November 2003 through April 2004. The Town asserts and DEQ agrees that at the time of the apparent pH violations the Town's pH meter was malfunctioning. The NOV also cited the failure to submit to DEQ a notification letter of exceeding 95% of the design capacity for three consecutive months due by January 10, 2004, and the failure to submit a corrective action plan to address the high influent flows due by March 10, 2004. In addition, there was an apparent TSS effluent limitation violation in July 2004, which was not cited in an enforcement document.
5. On August 10, 2004, DEQ met with representatives of the Town of Mt. Jackson in an informal settlement conference to discuss the NOV and ongoing exceedances of the Facility's design capacity and the apparent effluent limitation violations. The August 10, 2004, meeting included discussions of the corrective actions that the Town had taken to date to address the Facility's problems and the need for a plan and schedule of corrective actions to return the Facility to compliance with effluent limitations.
6. The Town is proposing to construct a new Facility with a higher design capacity, which could place the Facility into the category of a significant nutrient discharger to the Chesapeake Bay. Classification in this category could require that the Town design a Facility capable of meeting nutrient limits in the future. These issues could have a significant impact on the Town's discharge permit and the planning to address the ongoing problems. The August 10, 2004, meeting included discussions of the permitting issues regarding the Town's plans of corrective actions to address the compliance problems.
7. By letters dated September 8, 2004 and September 13, 2004, Mt. Jackson submitted to DEQ a written plan and schedule of corrective actions to return the Facility to compliance with the Permit's requirements. Sections of this plan and schedule have been incorporated into Appendix A of this Order.

#### **SECTION D: Agreement and Order**

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Mt. Jackson, and Mt. Jackson agrees, to perform the actions described in Appendix A and Appendix B of this Order. In addition, the Board orders Mt. Jackson, and Mt. Jackson voluntarily agrees, to pay a civil charge of **\$2100** within **30 days** of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Mt. Jackson shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Mt. Jackson, for good cause shown by Mt. Jackson, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations identified herein, including those matters addressed in the Notice of Violation issued to Mt. Jackson by DEQ on July 8, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Mt. Jackson admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Mt. Jackson consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mt. Jackson declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Mt. Jackson to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mt. Jackson shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood,

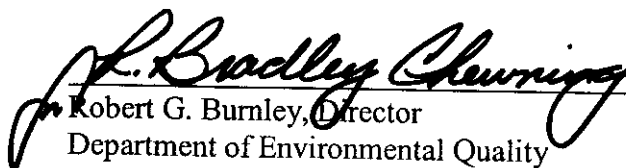
other acts of God, war, strike, or such other occurrence. Mt. Jackson shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mt. Jackson shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Mt. Jackson intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mt. Jackson. Notwithstanding the foregoing, Mt. Jackson agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Mt. Jackson. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mt. Jackson from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, the Town of Mt. Jackson voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 18 March, 2005

  
Robert G. Burnley, Director  
Department of Environmental Quality

The Town of Mt. Jackson voluntarily agrees to the issuance of this Order.

By: Charles Moore

Title: Town Manager

Date: 12/28/2004

Commonwealth of Virginia

City/County of Shenandoah

The foregoing document was signed and acknowledged before me this

28<sup>th</sup> day of December, 2004, by Charles Moore,  
(name)

who is Town Manager of the Town of Mt. Jackson, on behalf of the Town.  
(title)

July S. Zully  
Notary Public

My commission expires: Oct. 31, 2006

**APPENDIX A  
SCHEDULE OF COMPLIANCE  
TOWN OF MT. JACKSON STP**

**Facility Upgrade**

1. **By December 1, 2004**, Mt. Jackson shall submit to DEQ for review and approval a VPDES Permit application for the proposed new Facility. Mt. Jackson shall respond to any comments on the application **within 30 days** of receipt of written comments.
2. **By July 15, 2005**, but in no case later than **within 60 days** of DEQ providing Mt. Jackson with the proposed effluent limitations for the new Facility, Mt. Jackson shall complete and submit to DEQ for review and approval a PER for the new Facility. Mt. Jackson shall respond to any comments on the PER within **30 days** of receipt of written comments.
3. **Within 150 days** of the approval of the PER for the new Facility, Mt. Jackson shall submit to DEQ for review and approval the plans and specifications for the new Facility. Mt. Jackson shall respond to comments regarding the plans and specification for the new Facility **within 30 days** of receipt of written comments.
4. **Within 30 days** of approval of the plans and specifications for the new Facility, Mt. Jackson shall advertise for bids for the new Facility.
5. **Within 60 days** of receipt of bids for the new Facility, Mt. Jackson shall award the contract for the construction of the new Facility.
6. **Within 30 days** of awarding the contract for construction of the new Facility, Mt. Jackson shall begin construction of the new Facility.
7. **Within 575 days** of beginning construction of the new Facility, Mt. Jackson shall complete construction of the new Facility. At the same time, Mt. Jackson shall also submit to DEQ for review and approval an O&M Manual and a revised SMP for the new Facility. Mt. Jackson shall respond to comments regarding the O&M Manual and SMP **within 30 days** of receipt of written comments.
8. **Within 30 days** of completing construction of the new Facility, Mt. Jackson shall request a CTO for the Facility. Mt. Jackson shall respond to comments regarding construction deficiencies **within 30 days** of receipt of written comments.

**Infiltration and Inflow Control Program**

**Project 1 - South Jackson Area**

9. **By November 1, 2004**, Mt. Jackson shall begin the Project 1 sewer system evaluation study (SSES) as described in its letters dated September 8, 2004 and September 13, 2004, which shall include, at minimum, the following:
  - a. A public information program;
  - b. Collection system line integrity testing utilizing TV monitoring and smoke testing;
  - c. Assessment of leakage for all pump stations, manholes and other access points;
  - d. Conducting flow metering during day and night and wet and dry weather conditions;
  - e. Producing a collection system map with pipe sizing, pump stations, manhole locations, and graphic reference points; and
  - f. Data analysis and a project report.
10. **By April 1, 2005**, Mt. Jackson shall complete the SSES work for the Project 1.
11. **By May 15, 2005**, Mt. Jackson shall submit to DEQ for review and approval the Project 1 SSES report describing the work done and its findings. The report shall provide a corrective action plan and schedule of prioritized I&I projects, which will be performed to remove I&I sources identified in the collection system. Mt. Jackson shall respond to comments on the SSES **within 30 days** of receiving written comments. Upon approval of the plan and schedule it shall be incorporated by reference and will become an enforceable part of this Order.

#### **Project 2 - Mt. Jackson collection system excluding the South Jackson Area**

12. **By January 1, 2005**, Mt. Jackson shall begin the Project 2 sewer system evaluation study (SSES) work as described in its letters dated September 8, 2004 and September 13, 2004, which shall include, at minimum, the following:
  - a. A public information program;
  - b. Collection system line integrity testing utilizing TV monitoring and smoke testing;
  - c. Assessment of leakage for all pump stations, manholes and other access points;
  - d. Conducting flow metering during day and night and wet and dry weather conditions;
  - e. Producing a collection system map with pipe sizing, pump stations, manhole locations, and graphic reference points; and
  - f. Data analysis and a project report.
13. **By November 1, 2005**, Mt. Jackson shall complete the SSES work for the Project 2.
14. **By December 15, 2005**, Mt. Jackson shall submit to DEQ for review and approval the Project 2 SSES report describing the work done and its findings. The report shall provide a corrective action plan and schedule of prioritized I&I projects, which will be performed to remove I&I sources identified in the collection system. Mt. Jackson shall respond to comments on the SSES **within 30 days** of receiving written comments. Upon approval of the plan and schedule it shall be incorporated by reference and will become an enforceable part of this Order.



15. Mt. Jackson shall submit quarterly progress reports to DEQ, with the first report being due **January 10, 2005**. Subsequent Progress Reports will be due by **April 10, July 10, October 10, and January 10** along with the Facility's Discharge Monitoring Report until the cancellation of the Order. The quarterly progress reports shall contain:
  - a. a summary of all work completed since the previous progress report in accordance with this Order.
  - b. a projection of the work to be completed during the upcoming quarter in accordance with this Order; and
  - c. a statement regarding any anticipated problems in complying with this Order.
16. No later than **14 days** following a date identified in the above schedule of compliance Mt. Jackson shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.

## APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the date of entry of this Consent Special Order and lasting for a period of **three years or until the completion of the new Facility, whichever occurs first**, Mt. Jackson shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

<u>EFFLUENT CHARACTERISTICS</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Min.</u>	<u>Max.</u>	<u>Frequency</u>	<u>Sample Type</u>
	mg/l	kg/d	mg/l	kg/d				
BOD <sub>5</sub>	30	36	45	NL	NA	NA	3 D/W	8HC

NA = Not Applicable

NL = No Limit